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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,418	01/14/2004	Masahiko Fujita	021547A	2984

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EXAMINER

SEMBER, THOMAS M

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/756,418	Applicant(s) FUJITA, MASAHIKO	
	Examiner Thomas M. Sember	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of applicant's remarks filed on 09/07/06.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 12-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladyjensky (US 5,370,828) in view of Nowak et al. (US 5,580,893) and Holland (US 5,390,086). Ladyjensky discloses a chemiluminescent device comprising plural number of chemiluminescent devices (1 in Fig. 3), a flexible container (1 in Fig. 1), an approximately cylindrical synthetic-resin ampoule (2) contained in said flexible container, said ampoule having a surface formed with one or more grooves (5) extending along the circumferential direction thereof; and two kinds of liquids (3 and 4) capable of generating chemiluminescence when they are mixed together, one of said liquids being enclosed in said ampoule, the other liquid being enclosed in said container on the outside of said ampoule. Ladyjensky does not teach the ampoule is movably contained in the flexible container. However, Nowak shows the ampoule (4 in Fig. 1) is movably contained in a flexible container and the chemiluminescent devices are integrally combined in a longitudinal direction or in a lateral direction (Fig. 1). Holland also shows the ampoules (80 and 82 in Fig. 6) are movably contained in a flexible

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container and integrally combined in a lateral direction. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ladyjensky's chemiluminescent device to include the movable ampoules as Nowak and Holland in order to provide flexibility of the ampoules in the container.

6. Claims 6-7 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladyjensky in view of Nowak in view of Holland as applied in claims 1-5, 12-14 and 17 in view of Noel (USPT 6,021,595). Ladyjensky in view of Nowak in view of Holland as applied in claims 1-5, 12-14 and 17 disclosed the claimed invention except a hole or hook of the container. However, Noel teaches a hole (10 in Fig. 1) or a hook (7) provided at the end of the chemiluminescent container. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ Noel's hook or hole into Ladyjensky's chemiluminescent device in order to easily secure the chemiluminescent device to a fishing line easily and quickly.

Response to Arguments

1. Applicant's arguments with respect to claims 1-8 and 12-17 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments with regard to claims 9-11 are found persuasive by the examiner.

Allowable Subject Matter

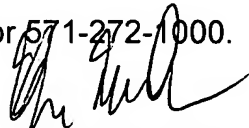
1. Claims 9-11 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Sember whose telephone number is 571-272-2381. The examiner can normally be reached on M-F 8 A.M- 5.30 p.m. first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas M Sember
Primary Examiner
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